

ASSEMBLY BILL

No. 235

Introduced by Assembly Member Hayashi

February 6, 2009

An act to amend Section 1317.1 of, and to add Section 1317.4a to, the Health and Safety Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 235, as introduced, Hayashi. Emergency services and care.

(1) Existing law provides for the regulation of health facilities, including general acute care hospitals and acute psychiatric hospitals. A violation of these provisions is a crime. Existing law requires emergency services and care to be provided to any person requesting the services or care for any condition in which the person is in danger of loss of life. For purposes of these provisions, existing law defines emergency services and care to include additional screening, examination, and evaluation by a physician, or other personnel to the extent permitted by applicable law and within the scope of their licensure and clinical privileges, to determine if a psychiatric emergency medical condition exists, as provided.

This bill would define psychiatric emergency medical condition, and would, for this purpose, include admission or transfer to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital within the care and treatment of this condition.

This bill would also allow the transfer of a patient to a psychiatric unit within a general acute care hospital or to an acute psychiatric hospital for the purpose of providing care and treatment that is solely necessary to relieve or eliminate a psychiatric emergency medical condition if, in the opinion of the treating provider, the patient's medical

condition is such that, within a reasonable medical probability, no material deterioration of the patient's condition is likely to result from, or occur during, the transfer of the patient. The bill would require a provider to notify the patient's health care service plan, or the health plan's contracting provider of the need for the transfer, as provided. The bill would require a hospital that transfers a patient pursuant to these provisions to seek to obtain the name and contact information of the patient's health care service plan, would require the hospital to document its attempt to ascertain this information, and would require the hospital to notify the health care service plan of specified information related to the transfer, as provided. The bill would also require a health care service plan to provide noncontracting hospitals with its contact information, as provided, and would require health care service plans to update this information as necessary, but no less than once a year. The bill would further require the hospital to which a patient is transferred pursuant to these provisions to notify the patient's health care service plan of the transfer, as provided. By creating new crimes, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1317.1 of the Health and Safety Code is
2 amended to read:
3 1317.1. Unless the context otherwise requires, the following
4 definitions shall control the construction of this article and Section
5 1371.4:
6 (a) (1) "Emergency services and care" means medical screening,
7 examination, and evaluation by a physician, or, to the extent
8 permitted by applicable law, by other appropriate personnel under
9 the supervision of a physician, to determine if an emergency
10 medical condition or active labor exists and, if it does, the care,
11 treatment, and surgery by a physician necessary to relieve or

1 eliminate the emergency medical condition, within the capability
2 of the facility.

3 (2) (A) “Emergency services and care” also means an additional
4 screening, examination, and evaluation by a physician, or other
5 personnel to the extent permitted by applicable law and within the
6 scope of their licensure and clinical privileges, to determine if a
7 psychiatric emergency medical condition exists, and the care and
8 treatment necessary to relieve or eliminate the psychiatric
9 emergency medical condition, within the capability of the facility.

10 (B) *The care and treatment necessary to relieve or eliminate a*
11 *psychiatric emergency medical condition may include admission*
12 *or transfer to a psychiatric unit within a general acute care*
13 *hospital, as defined in subdivision (a) of Section 1250, or to an*
14 *acute psychiatric hospital, as defined in subdivision (b) of Section*
15 *1250, pursuant to subdivision (k).*

16 ~~(B)~~

17 (C) For the purposes of Section 1371.4, emergency services and
18 care as defined in this paragraph shall not apply to services
19 provided under managed care contracts with the Medi-Cal program
20 to the extent that those services are excluded from coverage under
21 the contract.

22 ~~(C)~~

23 (D) This paragraph does not expand, restrict, or otherwise affect,
24 the scope of licensure or clinical privileges for clinical
25 psychologists or other medical personnel.

26 (b) “Emergency medical condition” means a medical condition
27 manifesting itself by acute symptoms of sufficient severity
28 (including severe pain) such that the absence of immediate medical
29 attention could reasonably be expected to result in any of the
30 following:

31 (1) Placing the patient’s health in serious jeopardy.

32 (2) Serious impairment to bodily functions.

33 (3) Serious dysfunction of any bodily organ or part.

34 (c) “Active labor” means a labor at a time at which either of the
35 following would occur:

36 (1) There is inadequate time to effect safe transfer to another
37 hospital prior to delivery.

38 (2) A transfer may pose a threat to the health and safety of the
39 patient or the unborn child.

(d) “Hospital” means all hospitals with an emergency department licensed by the state department.

(e) “State department” means the State Department of Public Health.

(f) “Medical hazard” means a material deterioration in medical condition in, or jeopardy to, a patient’s medical condition or expected chances for recovery.

(g) “Board” means the Medical Board of California.

(h) “Within the capability of the facility” means those capabilities—~~which~~ *that* the hospital is required to have as a condition of its emergency medical services permit and services specified on Services Inventory Form 7041 filed by the hospital with the Office of Statewide Health Planning and Development.

(i) “Consultation” means the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient’s medical record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

(j) A patient is “stabilized” or “stabilization” has occurred when, in the opinion of the treating provider, the patient’s medical condition is such that, within reasonable medical probability, no material deterioration of the patient’s condition is likely to result from, or occur during, the release or transfer of the patient as provided for in Section 1317.2, Section 1317.2a, or other pertinent statute.

(k) “*Psychiatric emergency medical condition*” means a mental disorder that manifests itself by acute symptoms of sufficient severity that renders the patient as being either paragraph (1) or paragraph (2):

(1) *An immediate danger to himself or herself or to others.*

(2) *Immediately unable to provide for, or utilize, food, shelter, or clothing, due to the mental disorder.*

(3) *This subdivision does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or medical personnel.*

SEC. 2. Section 1317.4a is added to the Health and Safety Code, to read:

1 1317.4a. (a) Notwithstanding subdivision (j) of Section 1317.1,
2 a patient may be transferred for admission to a psychiatric unit
3 within a general acute care hospital, as defined in subdivision (a)
4 of Section 1250, or an acute psychiatric hospital, as defined in
5 subdivision (b) of Section 1250, for care and treatment that is
6 solely necessary to relieve or eliminate a psychiatric emergency
7 medical condition, as defined in subdivision (k) of Section 1317.1,
8 provided that, in the opinion of the treating provider, the patient's
9 psychiatric emergency medical condition is such that, within
10 reasonable medical probability, no material deterioration of the
11 patient's psychiatric emergency medical condition is likely to result
12 from, or occur during, a transfer of the patient. A provider shall
13 notify the patient's health care service plan, or the health plan's
14 contracting medical provider of the need for the transfer if
15 identification of the plan is obtained pursuant to paragraph (1) of
16 subdivision (b).

17 (b) A hospital that transfers a patient pursuant to subdivision
18 (a) shall do both of the following:

19 (1) Seek to obtain the name and contact information of the
20 patient's health care service plan. The hospital shall document its
21 attempt to ascertain this information in the patient's medical record.
22 The hospital's attempt to ascertain the information shall include
23 requesting the patient's health care service plan member card,
24 asking the patient, the patient's family member, or other person
25 accompanying the patient if he or she can identify the patient's
26 health care service plan, or using other means known to the hospital
27 to accurately identify the patient's health care service plan.

28 (2) Notify the patient's health care service plan or the health
29 plan's contracting medical provider of the transfer, provided that
30 the identification of the plan was obtained pursuant to paragraph
31 (1). The hospital shall provide the plan or its contracting medical
32 provider with the name of the patient, the patient's member
33 identification number, if known, the location and contact
34 information, including a telephone number, for the location where
35 the patient will be admitted, and the preliminary diagnosis.

36 (c) (1) A hospital shall make the notification described in
37 paragraph (2) of subdivision (b) by either following the instructions
38 on the patient's health care service plan member card or by using
39 the contact information provided by the patient's health care service
40 plan. A health care service plan shall provide all noncontracting

1 hospitals in the state to which one of its members would be
2 transferred pursuant to paragraph (1) of subdivision (b) with
3 specific contact information needed to make the contact required
4 by this section. The contact information provided to hospitals shall
5 be updated as necessary, but no less than once a year.

6 (2) A hospital making the transfer pursuant to subdivision (a)
7 shall not be required to make more than one telephone call to the
8 health care service plan, or its contracting medical provider,
9 provided that in all cases the health care service plan, or its
10 contracting medical provider, shall be able to reach a representative
11 of the provider upon returning the call, should the plan, or its
12 contracting medical provider, need to call back. The representative
13 of the hospital who makes the telephone call may be, but is not
14 required to be, a physician and surgeon.

15 (d) If a transfer made pursuant to subdivision (a) is made to a
16 facility that does not have a contract with the patient's health care
17 service plan, the plan may subsequently require and make provision
18 for the transfer of the patient receiving services pursuant to this
19 section and subdivision (a) of Section 1317.1 from the
20 noncontracting facility to a general acute care hospital, as defined
21 in subdivision (a) of Section 1250, or an acute psychiatric hospital,
22 as defined in subdivision (b) of Section 1250, that has a contract
23 with the plan or its delegated payer, provided that in the opinion
24 of the treating provider the patient's psychiatric emergency medical
25 condition is such that, within reasonable medical probability, no
26 material deterioration of the patient's psychiatric emergency
27 medical condition is likely to result from, or occur during, the
28 transfer of the patient.

29 (e) Upon admission, the hospital to which the patient was
30 transferred shall notify the health care service plan of the transfer,
31 provided that the facility has the name and contact information of
32 the patient's health care service plan. The facility shall not be
33 required to make more than one telephone call to the health care
34 service plan, or its contracting medical provider, provided that in
35 all cases the health care service plan, or its contracting medical
36 provider, shall be able to reach a representative of the facility upon
37 returning the call, should the plan, or its contracting medical
38 provider, need to call back. The representative of the facility who
39 makes the telephone call may be, but is not required to be, a
40 physician and surgeon.

1 (f) Nothing in this subdivision shall be construed to require
2 providers to seek authorization to provide emergency services and
3 care, as defined in paragraph (2) of subdivision (a) of Section
4 1317.1, to a patient who has a psychiatric emergency medical
5 condition, as defined in subdivision (k) of Section 1317.1, that is
6 not otherwise required by law.

7 SEC. 3. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.